

**TRANSPORTATION CABINET
Department of Highways
Division of Maintenance
(Amendment)**

603 KAR 5:150. Encroachment permits.

RELATES TO: KRS 176.050(1)(i), 177.047, 177.103, 177.106

STATUTORY AUTHORITY: KRS 176.050(1)(i), 177.047, 177.106

NECESSITY, FUNCTION, AND CONFORMITY: KRS 176.050(1)(i) requires the Department of Highways to promulgate administrative regulations for the care and maintenance of roads after they have been constructed. KRS 177.047 requires that any person who intends to lay conduit, pipes, poles, or wires over or under a city street that is part of the state-maintained system of highways do so in accordance with administrative regulations of the Department of Highways. KRS 177.106 requires any person to obtain a permit for any encroachment to the right-of-way of any state highway. This administrative regulation provides the policies and procedures in maintenance of highways to allow encroachments onto a highway or right-of-way.

Section 1. Incorporation by Reference. (1) Kentucky Transportation Cabinet, Permits Manual, as revised and effective September 17, 2021 [~~May 2, 2019~~] is incorporated by reference.

(2) This material may be inspected, copied, or obtained subject to applicable copyright law Monday through Friday between 8 a.m. and 4:30 p.m. at:

(a) Kentucky Transportation Cabinet, Office of Human Resource Management, Organizational Management Branch, Frankfort, Kentucky 40622;

(b) Kentucky Transportation Cabinet, Division of Maintenance, Permits Branch, 200 Mero Street, 3rd Floor East, Frankfort, Kentucky 40622; or

(c) Any of the twelve (12) highway district offices.

JIM GRAY, Secretary

JAMES BALLINGER, P.E., State Highway Engineer

APPROVED BY AGENCY: November 12, 2021

FILED WITH LRC: November 15, 2021 at 10:28 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 a.m. EST on January 25, 2022, via video teleconference. Members of the public wishing to attend may utilize the following link:

Join from PC, Mac, Linux, iOS or Android:

<https://bluejeans.com/683098553/8345>

Or Telephone:

+1.408.419.1715 (United States (San Jose))

+1.408.915.6290 (United States (San Jose))

Meeting ID: 683 098 553

Participant Passcode: 8345

Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the pub-

lic. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on January 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Larisa Plecha, Staff Attorney III, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, Fax (502) 564-5238, email larisa.plecha@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Larisa Plecha

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the guidelines and requirements of obtaining an encroachment permit onto the Department of Highways right-of-way.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 176.050(1)(i).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to KRS 176.050(1)(i) by providing the requirements for encroachment permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the regulatory requirements of KRS 176.050(1)(i).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: By providing updates to the Incorporation by Reference section that is currently outdated.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide updates to the Incorporation by Reference section that is currently outdated.

(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to KRS 176.050(1)(i) by providing the requirements for encroachment permits.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by providing updates to the Incorporation by Reference section that is currently outdated.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the Transportation Cabinet, Department of Highways, Division of Maintenance, Permits Branch along with all individuals and businesses intending to apply for an encroachment permit.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Each of the regulated entities will have to comply with the updated Permits Manual.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no additional costs or fees as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: The Department of Highways, individuals, and businesses will now have up-to-day information in the Incorporation by Reference section.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost associated with implementing this administrative regulation.

(b) On a continuing basis: There is no cost associated with implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Road Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No, all encroachment permit applicants will be treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? KYTC Department of Highways, Division of Maintenance

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 176.050(1)(i), 177.047, 177.106

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation should cause no effect on the expenditures and revenues of a state or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation is not expected to generate costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation is not expected to generate costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No revenues will be generated by this program.

Expenditures (+/-): No expenditures will be generated by this program.

Other Explanation: n/a